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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Butte)

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THE PEOPLE,  
  
Plaintiff and Respondent,  
  
v.  
  
TREVOR THOMAS GAUGUSH,  
  
Defendant and Appellant.

C060033  
  
(Super. Ct. No.  
CM028508)

Defendant Trevor Thomas Gaugush was charged by information with robbery (counts 1 & 2 -- Pen. Code, § 211), receiving stolen property (count 3 -- Pen. Code, § 496, subd. (a)), and possession of a controlled substance (count 4 -- Health & Saf. Code, § 11350, subd. (a)). The robbery counts were alleged to be serious and violent felonies. (Pen. Code, §§ 667.5, subd. (c), 1192.7, subd. (c).) Defendant pled no contest to counts 1 and 4, stipulating to their factual bases, and acknowledged that count 1 was a strike; the remaining counts were dismissed with a *Harvey* waiver.<sup>1</sup> He was advised that the maximum term under the plea agreement was five years eight

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<sup>1</sup> *People v. Harvey* (1979) 25 Cal.3d 754 (*Harvey*).

months, but that probation was possible if unusual circumstances existed.

The probation report recommended denying probation and sentencing defendant to the middle term, noting that he had multiple prior theft and drug arrests and admitted to heroin and OxyContin addiction. The trial court thereafter denied probation and imposed a total prison sentence of three years eight months: the three-year middle term on count 1 plus eight months on count 4 (the two-year middle term with all but eight months stayed).

According to the probation report, the facts are as follows:

On February 8, 2008, around 5:00 p.m., a white male adult robbed the Umpqua Bank in Chico, escaping with \$8,100 in cash. A black bag he was seen carrying, later found discarded under a bush outside the bank, contained a laptop computer, cables, and a compact disc. The laptop had been reported stolen from a pharmacy earlier that day.

On February 18, 2008, an anonymous informant advised the police that defendant and an associate, whom the police knew to be transients without much money, were seen with thousands of dollars in their possession the day after the Umpqua Bank robbery. Later that day defendant, still in the company of his associate, was arrested for trying to shoplift shoes at a mall. Questioned about the bank robbery, defendant, who admitted his drug addiction, first claimed he had gotten the money by selling

marijuana, then claimed he had robbed a drug dealer. The police cited defendant for shoplifting and released him.

On February 28, 2008, at around 2:00 p.m., police responded to a reported bank robbery at U.S. Bank in Chico. An officer spotted the suspect fleeing on a bicycle. When the officer caught him, he proved to be in possession of \$1,455, including "bait" money from U.S. Bank. Identified as defendant, he admitted handing the teller a demand note but claimed he was a drug-addicted schizophrenic who was hearing voices. Because this robbery resembled the Umpqua Bank robbery, he was questioned about the earlier crime and admitted it; he also admitted stealing the laptop from the pharmacy. Later, defendant was spotted taking a Baggie containing a white substance out of his underwear and putting it into his sock; it contained 40 OxyContin pills.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

**DISPOSITION**

The judgment is affirmed.

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RAYE, J.

We concur:

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SIMS, Acting P. J.

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CANTIL-SAKAUYE, J.